

Message Text

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PAGE 01 STATE 099915

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ORIGIN ERDA-07

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TO USMISSION OECD PARIS

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EXCON

E.O. 11652: XGDS-1

TAGS: ESTC, COCOM, TECH

SUBJECT: US RE-EXPORT CONTROLS ON NUCLEAR MATERIALS

REF: OECD PARIS 9871

1) EXCEPT AS NOTED BELOW, EXPORTS FROM THE US OF SIGNIFICANT QUANTITIES OF SOURCE MATERIAL CAN ONLY BE AUTHORIZED IF SUCH SHIPMENTS ARE MADE PURSUANT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE USG AND THE RECIPIENT GOVERNMENT PROVIDING FOR APPLICATION OF IAEA OR OTHER APPROPRIATE SAFEGUARDS. IN EVERY CASE THUS FAR THIS IS ACHIEVED BY USE OF AN AGREEMENT FOR COOPERATION WHICH ALSO PROVIDES, INTER ALIA, FOR SAFEGUARDS AND PEACEFUL USE GUARANTEES BY THE RECIPIENT GOVERNMENT, AS WELL AS A GUARANTEE THAT RE-EXPORT IS PROHIBITED UNLESS PRIOR US GOVERNMENT AUTHORIZATION IS FIRST SECURED. THEREFORE, IT SHOULD BE POINTED OUT TO GERDEL THAT RECIPIENT GOVERNMENTS HAVE PLEDGED THAT RE-EXPORTS TO ANY DESTINATION OF MATERIAL SUBJECT TO AN AGREEMENT FOR COOPERATION WILL NOT BE MADE
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PAGE 02 STATE 099915

UNLESS FIRST AUTHORIZED BY THE USG. ANY VIOLATION OF

THIS PROVISION WOULD BE A VIOLATION OF THE GUARANTEE IN THE INTERGOVERNMENTAL AGREEMENT FOR COOPERATION. PURSUANT TO THE TERMS OF THESE AGREEMENTS FOR COOPERATION, THE USG CAN GIVE ITS AUTHORIZATION TO RE-EXPORT ONLY TO COUNTRIES WITH WHICH IT HAS A SIMILAR AGREEMENT FOR COOPERATION. IN CERTAIN CASES EXPORT OF SOURCE MATERIAL FROM THE US MAY ALSO BE AUTHORIZED WITHOUT AN INTER-GOVERNMENTAL AGREEMENT IF THIS REQUIREMENT IS WAIVED. SINCE THE USG DOES NOT HAVE ANY AGREEMENTS FOR COOPERATION OR SAFEGUARDS AGREEMENT WITH COMMUNIST COUNTRIES, IT IS NECESSARY TO SEEK SPECIFIC EXCEPTIONS FROM THE REQUIREMENT FOR AN AGREEMENT TO PERMIT RE-EXPORTS OF US ORIGIN SOURCE MATERIAL TO BLOC COUNTRIES.

2) WITH REGARD TO YOUR INTERPRETATION OF OUR PREVIOUS INSTRUCTIONS, OUR RESERVE ON EXPORT OF US ORIGIN MATERIAL TO THE USSR MAY OR MAY NOT BAR EVENTUAL RE-EXPORT. OUR RESERVE ON US ORIGIN MATERIAL IS TO SEEK SPECIFIC EXEMPTION FROM THE LICENSING REQUIREMENT FOR THE CONTEMPLATED EXPORT AS WELL AS ERDA AUTHORIZATION IF THE PURPOSE OF THE EXPORT IS FOR ENRICHMENT. OUR RESERVE SHOULD NOT BE CONSTRUED AS "MERELY REQUIRING SPECIFIC REVIEW..." IT SHOULD BE UNDERSTOOD THAT OUR APPROVAL ON THE GERMAN TOLL ENRICHMENT TRANSACTION PERTAINS ONLY TO THE NON-US ORIGIN MATERIAL, AND THAT ANY US APPROVAL ON THE RE-EXPORT OF US ORIGIN MATERIAL, IF THERE WILL BE ANY, CANNOT BE ANTICIPATED UNTIL A SPECIFIC EXEMPTION AND AUTHORIZATION HAS BEEN OBTAINED. KISSINGER

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